

IC 6-3

ARTICLE 3. OTHER STATE INCOME TAXES

IC 6-3-1

Chapter 1. Definitions

IC 6-3-1-1

Short title

Sec. 1. IC 6-3-1 through IC 6-3-7 shall be known and may be cited as the Adjusted Gross Income Tax Act of 1963.

(Formerly: Acts 1963(ss), c.32, s.101.) As amended by P.L.2-1988, SEC.3.

IC 6-3-1-2

Construction of definitions

Sec. 2. Except where the context otherwise requires, the definitions given in this article govern the construction of this article.

(Formerly: Acts 1963(ss), c.32, s.102.) As amended by P.L.2-1988, SEC.4.

IC 6-3-1-2.5

"Armed forces of the United States"

Sec. 2.5. "Armed forces of the United States" has the meaning set forth in IC 5-9-4-3.

As added by P.L.144-2007, SEC.1.

IC 6-3-1-2.7

"National Guard"

Sec. 2.7. "National Guard" has the meaning set forth in IC 5-9-4-4.

As added by P.L.144-2007, SEC.2.

IC 6-3-1-3

Repealed

(Repealed by Acts 1980, P.L.54, SEC.9.)

IC 6-3-1-3.1

Repealed

(Repealed by Acts 1979, P.L.70, SEC.2.)

IC 6-3-1-3.5

"Adjusted gross income"

Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions

allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code (as effective January 1, 2004); and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a

taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(11) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(12) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(13) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(14) Subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(15) Subtract an amount equal to the lesser of:

(A) two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(16) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(17) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(18) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

- (20) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.
- (21) Subtract an amount equal to the amount of the taxpayer's qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.
- (22) Subtract income that is:
- (A) exempt from taxation under IC 6-3-2-21.7; and
 - (B) included in the individual's federal adjusted gross income under the Internal Revenue Code.
- (23) Subtract any amount of a credit (including an advance refund of the credit) that is provided to an individual under 26 U.S.C. 6428 (federal Economic Stimulus Act of 2008) and included in the individual's federal adjusted gross income.
- (24) Add any amount of unemployment compensation excluded from federal gross income, as defined in Section 61 of the Internal Revenue Code, under Section 85(c) of the Internal Revenue Code.
- (25) Add the amount excluded from gross income under Section 108(a)(1)(e) of the Internal Revenue Code for the discharge of debt on a qualified principal residence.
- (26) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract the amount necessary from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.
- (27) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.
- (28) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.
- (29) Add or subtract the amount necessary to make the adjusted

gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(30) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(31) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(32) This subdivision does not apply to payments made for services provided to a business that was enrolled and participated in the E-Verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. For a taxable year beginning after June 30, 2011, add the amount of any trade or business deduction allowed under the Internal Revenue Code for wages, reimbursements, or other payments made for services provided in Indiana by an individual for services as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal

Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.

(10) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).

(11) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the corporation's taxable income under the Internal Revenue Code.

(12) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December

31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(13) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(14) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(15) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(16) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(17) This subdivision does not apply to payments made for services provided to a business that was enrolled and participated in the E-Verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. For a taxable year beginning after June 30, 2011, add the amount of any trade or business deduction allowed under the Internal Revenue Code for wages, reimbursements, or other payments made for services provided in Indiana by an individual for services as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

(18) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political

subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(10) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1,

2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(11) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(12) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(13) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(14) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(15) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(16) This subdivision does not apply to payments made for services provided to a business that was enrolled and participated in the E-Verify program (as defined in

IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. For a taxable year beginning after June 30, 2011, add the amount of any trade or business deduction allowed under the Internal Revenue Code for wages, reimbursements, or other payments made for services provided in Indiana by an individual for services as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

(17) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable

year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(10) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(11) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(12) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(13) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(14) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year

or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(15) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(16) This subdivision does not apply to payments made for services provided to a business that was enrolled and participated in the E-Verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. For a taxable year beginning after June 30, 2011, add the amount of any trade or business deduction allowed under the Internal Revenue Code for wages, reimbursements, or other payments made for services provided in Indiana by an individual for services as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

(17) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in

service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(7) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the taxpayer's taxable income under the Internal Revenue Code.

(8) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(9) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(10) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(11) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(12) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(13) Add the amount excluded from gross income under Section 108(a)(1)(e) of the Internal Revenue Code for the discharge of debt on a qualified principal residence.

(14) This subdivision does not apply to payments made for services provided to a business that was enrolled and participated in the E-Verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. For a taxable year beginning after June 30, 2011, add the amount of any trade or business deduction allowed under the Internal Revenue Code for wages, reimbursements, or other payments made for services provided in Indiana by an individual for services as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

(15) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(Formerly: Acts 1971, P.L.64, SEC.1; Acts 1973, P.L.49, SEC.1.) As amended by Acts 1977, P.L.77, SEC.1; Acts 1977(ss), P.L.4, SEC.8; Acts 1978, P.L.42, SEC.1; Acts 1978, P.L.43, SEC.1; Acts 1980, P.L.54, SEC.1; Acts 1981, P.L.82, SEC.1; Acts 1982, P.L.52, SEC.1; P.L.82-1983, SEC.1; P.L.49-1984, SEC.1; P.L.73-1985, SEC.1; P.L.2-1987, SEC.15; P.L.91-1987, SEC.2; P.L.383-1987(ss), SEC.3; P.L.88-1989, SEC.1; P.L.1-1990, SEC.75; P.L.2-1992, SEC.68; P.L.57-1997, SEC.2; P.L.119-1998, SEC.3; P.L.128-1999, SEC.1; P.L.238-1999, SEC.1; P.L.249-1999, SEC.1; P.L.257-1999, SEC.1; P.L.273-1999, SEC.51; P.L.14-2000, SEC.16; P.L.8-2002, SEC.3; P.L.192-2002(ss), SEC.67; P.L.105-2003, SEC.1; P.L.1-2004, SEC.49; P.L.81-2004, SEC.9; P.L.246-2005, SEC.69; P.L.184-2006, SEC.3; P.L.162-2006, SEC.24; P.L.1-2007, SEC.53; P.L.144-2007, SEC.3; P.L.211-2007, SEC.19; P.L.223-2007, SEC.1; P.L.131-2008, SEC.11; P.L.3-2008, SEC.60; P.L.1-2009, SEC.49; P.L.182-2009(ss), SEC.186; P.L.229-2011, SEC.83; P.L.171-2011, SEC.4; P.L.172-2011, SEC.53; P.L.6-2012, SEC.47; P.L.137-2012, SEC.52; P.L.205-2013, SEC.80.

IC 6-3-1-3.7

Expired

(Expired 1-1-2014 by P.L.6-2012, SEC.48.)

IC 6-3-1-4**"Department"**

Sec. 4. The term "department" means the Indiana department of state revenue.

(Formerly: Acts 1963(ss), c.32, s.104.)

IC 6-3-1-5**"Employer"**

Sec. 5. The term "employer" means "employer" as defined in section 3401(d) of the Internal Revenue Code.

(Formerly: Acts 1963(ss), c.32, s.105.)

IC 6-3-1-6**"Employee"**

Sec. 6. The term "employee" means "employee" as defined in section 3401(c) of the Internal Revenue Code.

(Formerly: Acts 1963(ss), c.32, s.106.)

IC 6-3-1-7**"Fiduciary"**

Sec. 7. "Fiduciary" means any guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any individual, trust, guardian, or estate.

(Formerly: Acts 1963(ss), c.32, s.107.) As amended by P.L.33-1989, SEC.4.

IC 6-3-1-8**"Gross income"**

Sec. 8. The term "gross income" shall mean gross income as defined by section 61(a) of the Internal Revenue Code.

(Formerly: Acts 1963(ss), c.32, s.108.)

IC 6-3-1-9**"Individual"**

Sec. 9. The term "individual" means a natural person, whether married or unmarried, adult or minor.

(Formerly: Acts 1963(ss), c.32, s.109.)

IC 6-3-1-10**"Corporation"**

Sec. 10. As used in this article, "corporation" includes all corporations, associations, real estate investment trusts (as defined in the Internal Revenue Code), joint stock companies, whether organized for profit or not-for-profit, any receiver, trustee or conservator thereof, business trusts, Massachusetts trusts, any proprietorship or partnership taxable under Section 1361 of the Internal Revenue Code, and any publicly traded partnership that is treated as a corporation for federal income tax purposes under Section 7704 of the Internal Revenue Code. The term includes life

insurance companies (as defined in Section 816(a) of the Internal Revenue Code) and insurance companies subject to tax under Section 831 of the Internal Revenue Code.

(Formerly: Acts 1963(ss), c.32, s.110; Acts 1965, c.233, s.2; Acts 1973, P.L.49, SEC.2.) As amended by P.L.2-1987, SEC.16; P.L.63-1988, SEC.4; P.L.192-2002(ss), SEC.68.

IC 6-3-1-11

"Internal Revenue Code"

Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, 2013.

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, 2011, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, 2011, shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, 2013, that is effective for any taxable year that began before January 1, 2013, and that affects:

- (1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);
- (2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);
- (3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);
- (4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);
- (5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or
- (6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

(d) This subsection applies to a taxable year ending before January 1, 2013. The following provisions of the Internal Revenue Code that were amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are treated as though they were not amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312):

- (1) Section 1367(a)(2) of the Internal Revenue Code pertaining to an adjustment of basis of the stock of shareholders.
- (2) Section 871(k)(1)(C) and 871(k)(2)(C) of the Internal

Revenue Code pertaining the treatment of certain dividends of regulated investment companies.

(3) Section 897(h)(4)(A)(ii) of the Internal Revenue Code pertaining to regulated investment companies qualified entity treatment.

(4) Section 512(b)(13)(E)(iv) of the Internal Revenue Code pertaining to the modification of tax treatment of certain payments to controlling exempt organizations.

(5) Section 613A(c)(6)(H)(ii) of the Internal Revenue Code pertaining to the limitations on percentage depletion in the case of oil and gas wells.

(6) Section 451(i)(3) of the Internal Revenue Code pertaining to special rule for sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy for qualified electric utilities.

(7) Section 954(c)(6) of the Internal Revenue Code pertaining to the look-through treatment of payments between related controlled foreign corporation under foreign personal holding company rules.

The department shall develop forms and adopt any necessary rules under IC 4-22-2 to implement this subsection.

(Formerly: Acts 1963(ss), c.32, s.111; Acts 1965, c.233, s.3; Acts 1967, c.345, s.2; Acts 1969, c.326, s.2; Acts 1971, P.L.64, SEC.2; Acts 1973, P.L.49, SEC.3; Acts 1975, P.L.60, SEC.1.) As amended by Acts 1977, P.L.78, SEC.1; Acts 1978, P.L.44, SEC.1; Acts 1979, P.L.67, SEC.1; Acts 1980, P.L.55, SEC.1; Acts 1981, P.L.82, SEC.2; Acts 1982, P.L.52, SEC.2; P.L.82-1983, SEC.2; P.L.49-1984, SEC.2; P.L.74-1985, SEC.1; P.L.71-1986, SEC.1; P.L.2-1987, SEC.17; P.L.63-1988, SEC.5; P.L.89-1989, SEC.1; P.L.35-1990, SEC.11; P.L.64-1991, SEC.1; P.L.43-1992, SEC.9; P.L.74-1993, SEC.1; P.L.19-1994, SEC.7; P.L.85-1995, SEC.9; P.L.60-1997, SEC.2; P.L.119-1998, SEC.4; P.L.2-2000, SEC.1; P.L.9-2001, SEC.1; P.L.177-2002, SEC.11; P.L.192-2002(ss), SEC.69; P.L.105-2003, SEC.2; P.L.246-2005, SEC.70; P.L.184-2006, SEC.4; P.L.234-2007, SEC.41; P.L.131-2008, SEC.12; P.L.182-2009(ss), SEC.188; P.L.113-2010, SEC.54; P.L.229-2011, SEC.84; P.L.137-2012, SEC.53; P.L.205-2013, SEC.81.

IC 6-3-1-12

"Resident"

Sec. 12. The term "resident" includes (a) any individual who was domiciled in this state during the taxable year, or (b) any individual who maintains a permanent place of residence in this state and spends more than one hundred eighty-three (183) days of the taxable year within this state, or (c) any estate of a deceased person defined in (a) or (b), or (d) any trust which has a situs within this state.

(Formerly: Acts 1963(ss), c.32, s.112.)

IC 6-3-1-13

"Nonresident"

Sec. 13. The term "nonresident" means any person who is not a resident of Indiana.

(Formerly: Acts 1963(ss), c.32, s.113.)

IC 6-3-1-14

"Person"

Sec. 14. The term "person" means an individual, trust or estate: Provided, That no corporation shall be considered to be a person.

(Formerly: Acts 1963(ss), c.32, s.114.)

IC 6-3-1-15

"Taxpayer"

Sec. 15. The term "taxpayer" means any person or any corporation subject to taxation under this article.

(Formerly: Acts 1963(ss), c.32, s.115.) As amended by P.L.2-1988, SEC.5.

IC 6-3-1-16

"Taxable year"

Sec. 16. The term "taxable year" with respect to any taxpayer means the taxable year of such taxpayer as shown on his return required to be filed or filed pursuant to the Internal Revenue Code. Where a taxpayer does not file a return pursuant to the Internal Revenue Code, his taxable year shall be the calendar year.

(Formerly: Acts 1963(ss), c.32, s.116.)

IC 6-3-1-17

Repealed

(Repealed by P.L.35-1990, SEC.80.)

IC 6-3-1-18

Repealed

(Repealed by P.L.1-1991, SEC.51.)

IC 6-3-1-19

"Partnership" and "partner"

Sec. 19. (a) The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this chapter, a corporation or a trust or an estate. The term also includes a limited liability company that is treated as a partnership for federal income tax purposes.

(b) The term "partner" means a member of a partnership.

(Formerly: Acts 1963(ss), c.32, s.119; Acts 1965, c.233, s.6.) As amended by P.L.2-1988, SEC.6; P.L.8-1993, SEC.83; P.L.1-1994, SEC.27.

IC 6-3-1-19.5

Repealed

(Repealed by P.L.47-1984, SEC.7(a).)

IC 6-3-1-20

"Business income"

Sec. 20. The term "business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(Formerly: Acts 1963(ss), c.32, s.120; Acts 1965, c.233, s.7.)

IC 6-3-1-21

"Nonbusiness income"

Sec. 21. The term "nonbusiness income" means all income other than business income.

(Formerly: Acts 1963(ss), c.32, s.121; Acts 1965, c.233, s.8.)

IC 6-3-1-22

"Commercial domicile"

Sec. 22. The term "commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(Formerly: Acts 1963(ss), c.32, s.122; Acts 1965, c.233, s.9.)

IC 6-3-1-23

"Compensation"

Sec. 23. The term "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(Formerly: Acts 1963(ss), c.32, s.123; Acts 1965, c.233, s.10.)

IC 6-3-1-24

"Sales"

Sec. 24. The term "sales" means all gross receipts of the taxpayer not allocated under IC 6-3-2-2(g) through IC 6-3-2-2(k), other than compensation (as defined in section 23 of this chapter).

(Formerly: Acts 1963(ss), c.32, s.124; Acts 1965, c.233, s.11.) As amended by P.L.2-1988, SEC.7.

IC 6-3-1-25

"State"

Sec. 25. The term "state" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(Formerly: Acts 1963(ss), c.32, s.125; Acts 1965, c.233, s.12.)

IC 6-3-1-26

"Foreign corporation"

Sec. 26. "Foreign corporation" means a foreign corporation as defined in Section 7701 of the Internal Revenue Code.

As added by P.L.75-1985, SEC.1.

IC 6-3-1-27

"United States"

Sec. 27. "United States", when used in a geographical sense, means the United States as defined in Section 7701 of the Internal Revenue Code.

As added by P.L.75-1985, SEC.2.

IC 6-3-1-28

"Combined income tax return"

Sec. 28. "Combined income tax return" means any income tax return on which one (1) or more taxpayers report income, deductions, and credits on a combined basis with one (1) or more other entities.

As added by P.L.75-1985, SEC.3.

IC 6-3-1-29

"Eligible individual"

Sec. 29. As used in this chapter, "eligible individual" means:

- (1) a person who was systematically persecuted for racial or religious reasons by Nazi Germany or any other Axis regime;
- or
- (2) an heir of a person described in subdivision (1).

As added by P.L.128-1999, SEC.2.

IC 6-3-1-30

"Holocaust victim's settlement payment"

Sec. 30. As used in this chapter, "Holocaust victim's settlement payment" means a payment received:

- (1) as a result of the settlement of the action entitled "In re Holocaust Victims' Asset Litigation", (E.D. NY) C.A. No. 96-4849;
- (2) under the German Act Regulating Unresolved Property Claims;
- (3) under any other foreign law providing payments for Holocaust claims; or
- (4) as a result of the settlement of any other Holocaust claim, including:
 - (A) insurance claims;
 - (B) claims relating to looted art;
 - (C) claims relating to looted financial assets; or
 - (D) claims relating to slave labor wages.

As added by P.L.128-1999, SEC.3.

IC 6-3-1-31

"Victim of the September 11 terrorist attack"

Sec. 31. As used in this article, "victim of the September 11 terrorist attack" means an individual who:

(1) died from the crash (including those on the airplane and those on the ground) of any of the four (4) commercial jet airplanes that were hijacked in the United States on September 11, 2001; or

(2) is a child or spouse of an individual described in subdivision (1).

As added by P.L.8-2002, SEC.1.

IC 6-3-1-32

"September 11 terrorist attack settlement payment"

Sec. 32. As used in this article, "September 11 terrorist attack settlement payment" means any compensation paid to a victim of the September 11 terrorist attack:

(1) in recognition of; or

(2) to compensate for;

losses incurred by the victim as a result of the crash of any of the four (4) commercial jet airplanes that were hijacked in the United States on September 11, 2001.

As added by P.L.8-2002, SEC.2.

IC 6-3-1-33

"Bonus depreciation"

Sec. 33. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income or federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, including the special depreciation allowance for 50-percent bonus depreciation property.

As added by P.L.105-2003, SEC.3. Amended by P.L.246-2005, SEC.71.

IC 6-3-1-34

"Qualified military income"

Sec. 34. "Qualified military income" means wages that are paid:

(1) to a member of:

(A) a reserve component of the armed forces of the United States; or

(B) the National Guard; and

(2) for any of the following applicable periods, or any combination of the following applicable periods, in a calendar year:

(A) The member's full-time service on involuntary orders in:

(i) a reserve component of the armed forces of the United States; or

(ii) the National Guard.

(B) The period during which the member is mobilized and deployed for full-time service in:

(i) a reserve component of the armed forces of the United

States; or
(ii) the National Guard.

(C) The period during which the member's National Guard unit is federalized.

As added by P.L.144-2007, SEC.4.

IC 6-3-1-34.5

"Captive real estate investment trust"

Sec. 34.5. (a) Except as provided in subsection (b), "captive real estate investment trust" means a corporation, a trust, or an association:

- (1) that is considered a real estate investment trust for the taxable year under Section 856 of the Internal Revenue Code;
- (2) that is not regularly traded on an established securities market; and

(3) in which more than fifty percent (50%) of the:

- (A) voting power;
- (B) beneficial interests; or
- (C) shares;

are owned or controlled, directly or constructively, by a single entity that is subject to Subchapter C of Chapter 1 of the Internal Revenue Code.

(b) The term does not include a corporation, a trust, or an association in which more than fifty percent (50%) of the entity's voting power, beneficial interests, or shares are owned by a single entity described in subsection (a)(3) that is owned or controlled, directly or constructively, by:

- (1) a corporation, a trust, or an association that is considered a real estate investment trust under Section 856 of the Internal Revenue Code;
- (2) a person exempt from taxation under Section 501 of the Internal Revenue Code;
- (3) a listed property trust or other foreign real estate investment trust that is organized in a country that has a tax treaty with the United States Treasury Department governing the tax treatment of these trusts; or

(4) a real estate investment trust that:

- (A) is intended to become regularly traded on an established securities market; and
- (B) satisfies the requirements of Section 856(a)(5) and Section 856(a)(6) of the Internal Revenue Code under Section 856(h) of the Internal Revenue Code.

(c) For purposes of this section, the constructive ownership rules of Section 318 of the Internal Revenue Code, as modified by Section 856(d)(5) of the Internal Revenue Code, apply to the determination of the ownership of stock, assets, or net profits of any person.

As added by P.L.211-2007, SEC.20. Amended by P.L.182-2009(ss), SEC.189.

IC 6-3-1-35

"Pass through entity"

Sec. 35. As used in this article, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a trust;
- (4) a limited liability company; or
- (5) a limited liability partnership.

As added by P.L.182-2009(ss), SEC.190.